IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.1141 OF 2003
IN
SUMMARY SUIT NO.2606 OF 2002

M/s.Alfa Chemical Corporation .. Plaintiffs

Vs.

1. Lapinus Rockwool P.Ltd. and Anr. .. Defendants

Mr.Y.M.Chaudhari for the plaintiffs

Mr.V.S.Devale for the defendant no.1

CORAM : S.U.KAMDAR, J

DATED : 23RD AUGUST, 2005

P.C.:

1. The present suit is filed for the recovery of sum of Rs. 5,23,872/- arising out of the contract for goods sold and delivered. The contract is evident from the Ex.A and B. It is an admitted position that the plaintiffs have received the goods of 4000 Kgs by the said contract. However, it is contended by the defendants that the goods were to be delivered immediately on 16.3.98 but the same was delivered only on 31.3.98. Thus, there was a delay of 15 days. The second

contention raised is that 200 kgs of the goods were found defective and the same were returned. However, it is an admitted position that necessary credit for the return of said goods has already been given by the plaintiffs. In so far as balance goods are concerned, it is the case of the defendants that the said goods were substandard. There is no record to show that the defendants ever raised the dispute of substandard goods nor they ever offered to return back to the plaintiffs. The next contention is about the rate of interest which is claimed @ 18%. It is contended that there is no contract to pay the interest. However, by letter dt.18.6.99 the plaintiffs claimed the interest @ 24% and the plaintiffs are entitled to claim the said interest at the aforesaid rate. In so far as delay in delivery of the goods is concerned. I am of the opinion that the defendants accepted the said goods after period of 15 days and that time they were aware that there is a delay. In that view of the matter there is no substance in the defence of delay in delivery of the said goods. The last contention is that this court has no territorial jurisdiction. Prima Facie, I am of the

opinion that this court has jurisdiction as the contract has been entered into at Bombay and the goods are sent from Bombay. However, still to give an opportunity to the defendant to defend the case, I direct the defendants to deposit the sum of 4 lacs within 4 weeks failing which plaintiffs will be entitled to decree.

2. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 1 year and then renew the same from time to time till further orders of this court.If the amount is so deposited then the suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.